

05-10300
USDC/MA
Zobel, R.

MANDATE
United States Court of Appeals
For the First Circuit

No. 06-1218

ROSARIO GUZZI,
Petitioner, Appellant,
v.
MICHAEL A. THOMPSON,
Respondent, Appellee.

Before

Boudin, Chief Judge,
Torruella and Howard, Circuit Judges.

JUDGMENT
Entered: March 17, 2006

In 1997, petitioner Rosario Guzzi was convicted and sentenced in a Massachusetts state court for violating a restraining order and witness intimidation. He did not seek immediate appellate review but moved to set aside the convictions nearly six years later, in or around August 2003. The motion was denied, and his appeals in state court were unsuccessful. He then petitioned the United States District Court for the District of Massachusetts for habeas corpus relief under 28 U.S.C. § 2254. The district court denied his petition as time-barred, and denied a certificate of appealability. Petitioner now seeks a certificate of appealability from this court.

Relief under § 2254 is subject to a one-year limitations period. 28 U.S.C. § 2244(d). Petitioner has not argued any legally cognizable grounds for tolling this limitations period between the time that his convictions became final in or around October 1997 and the time he sought to set those convictions aside in August 2003. Nothing in the record indicates any viable basis for tolling during such a long interval. The district court was correct in concluding that the petition was untimely.

Petitioner's request for a certificate of appealability is denied and the appeal is terminated.

By the Court:

Certified and Issued as Mandate
under Fed. R. App. P. 41.

Richard Cushing Donovan, Clerk.

Richard Cushing Donovan, Clerk

George J. Meltzer
Deputy Clerk

Date: 4/7/06

MARGARET CARTER

By: _____
Chief Deputy Clerk.

[cc: Rosario Guzzi, Eva M. Badway, AAG]